

1 SECTION 4. Section 51 of chapter 7 of the General Laws, as so appearing in the 2002 Official Edition, is
2 hereby repealed.

1 SECTION 5. Section 9 of chapter 15A of the General Laws, as most recently amended by section 52 of
2 chapter 26 of the acts of 2003, is hereby further amended by adding the following paragraph:—
3 Notwithstanding any general or special law to the contrary, for the purpose of determining eligibility for in-
4 state tuition rates and fees at public institutions of higher education, except the University of Massachusetts
5 Medical School, an individual, other than a non-immigrant alien within the meaning of paragraph 15 of
6 subsection (a) of Section 1101 of Title 8 of the United States Code, who has attended high school in the
7 commonwealth for 3 or more years and has achieved graduation from a high school in the commonwealth
8 or attained the equivalent thereof, shall be eligible for in-state tuition rates and fees at the University of
9 Massachusetts, or any state or community college in the commonwealth. No person qualified for in-state
10 tuition rates and fees under this chapter shall be denied such in-state tuition and fees upon the granting of
11 eligibility under this paragraph; but, in the case of an individual who is not a citizen or permanent resident of
12 the United States, the individual shall provide the University of Massachusetts, or the state or community
13 college with an affidavit stating that the individual has filed an application to become a citizen or permanent
14 resident of the United States, or shall file an application at the earliest opportunity the individual is eligible to
15 do so.

1 SECTION 6. Chapter 75 of the General Laws, as so appearing, is hereby amended by inserting after
2 section 45 the following section:—

3 Section 46. There shall be at the University of Massachusetts at Boston an office of dispute resolution
4 under the supervision and control of a director who shall be appointed by the provost with the approval of
5 the chancellor and concurrence of the board of trustees. Said director shall be a person with substantial
6 training and professional experience in dispute resolution, shall maintain complete impartiality with respect
7 to the matters coming before said office of dispute resolution, and shall devote full time to the duties of the
8 office.

9 Said office of dispute resolution shall be available to assist agencies and offices of the executive,
10 legislative, and judicial branches of the commonwealth, as well as any political subdivision or public
11 instrumentality created by the commonwealth or any county, city, or town, hereafter referred to as public
12 agencies, to improve the resolution of disputes that arise within their respective jurisdictions. Said office is
13 authorized to (a) facilitate the resolution of disputes through provision of impartial mediation and other
14 dispute resolution services; (b) establish standards for the selection, assignment, and conduct of persons
15 acting on behalf of said office in the resolution of disputes; (c) conduct educational programs and provide
16 other services designed to reduce the occurrence, scope, complexity, or cost of disputes; (d) design,
17 develop, or operate dispute resolution programs or to assist public agencies to improve or extend their
18 existing dispute resolution programs; and (e) take such other action as will promote and facilitate dispute
19 resolution by public agencies in the commonwealth. The director may establish reasonable fees to be
20 charged to parties, litigants, or public agencies for the provision of the educational, consultation, dispute
21 resolution, or other services authorized herein and may apply for and accept on behalf of the
22 commonwealth any federal, local, or private grants, bequests, gifts, or contributions to aid in the financing
23 of any of the programs or activities of the office. Such fees, grants, bequests, gifts, or contributions shall be
24 received by the University of Massachusetts at Boston and deposited in a separate account and shall be
25 expended, without further appropriation, at the direction of the director, with the approval of the provost, for
26 the cost of operation of the office, including personnel. The office may make agreements with public
27 agencies and officers and may contract with other persons, including private agencies, corporations, or

associations, to carry out any of the functions and purposes of this section. The office shall prepare annually a report on the activities of the office, including all income and expenditures, and shall file said report with the house and senate committees on ways and means on or before December 31 of each year.

SECTION 7. Section 47 of chapter 94C of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out the paragraph starting at line 116 through and including line 122, and inserting in place thereof the following:—

The final order of the court shall provide that said moneys and the proceeds of any such sale shall be distributed to the commonwealth. The office of the state treasurer shall direct thirty-three percent of said moneys and proceeds to the prosecuting district attorney or attorney general, thirty-three percent of said moneys and proceedings to the city, town or state police department involved in the seizure and the remaining portion of said moneys and proceeds shall be deposited into the general fund.

SECTION 8. Section 39C of chapter 112 of the General Laws, as inserted by section 306 of chapter 26 of the acts of 2003, is hereby amended by inserting after the first sentence the following sentence:—Such entities shall be deemed retail pharmacies and not providers of institutional, residential, or long-term care services.

SECTION 9. Section 18 of chapter 118G, as appearing in the 2002 Official Edition, is hereby amended by striking out subsection (o), and inserting in place thereof the following subsection:— (o) Within the Uncompensated Care Trust Fund, there shall be established a medical assistance account, administered by the secretary of the executive office of health and human services, consisting of any funds directed to the commonwealth from public entities, and federal reimbursements related to medical assistance payments funded by this account. All amounts credited to this account shall be held in trust and shall be available for expenditure by the secretary of the executive office of health and human services to be used for medical assistance payments to entities authorized by the general court, and for which a public entity has contractually agreed to direct funds to said account; provided, however, that any amount in excess of such medical assistance payments may be credited to the General Fund; provided, further, that the amount of all such expenditures shall be subject to annual approval by the general court. The maximum payments from said account shall not exceed those permissible for federal reimbursement under Title XIX or Title XXI of the Social Security Act or any successor federal statute. The comptroller may make payments, including payments during the accounts payable period, in anticipation of revenues, including receivables due and collectibles during the months of July and August, and shall establish procedures for reconciling overpayments or underpayments from said account; provided, that said procedures shall include, but not be limited to, appropriate mechanisms for refunding public funds directed to this account and federal reimbursements upon recoupment of any such overpayments. The executive office of health and human services shall ensure that the division of health care finance and policy is informed regarding revenue and expenditure activity within said account and submit to the secretary of administration and finance and the house and senate committees on ways and means a schedule of said payments ten days prior to any expenditures, and no funds shall be expended without an enforceable agreement with or legal obligation imposed upon a public entity to make an intergovernmental transfer in an appropriate amount to said account.

SECTION 10. Chapter 175 of the acts of 1998 is hereby amended by striking out section 25 and inserting in place thereof the following section:—

Section 25. Sections 3A, 20A, and 21A of this act shall take effect on December 31, 2008.

1 SECTION 11. Chapter 141 of the acts of 2003 is hereby amended by striking out section 79 and inserting in
2 place thereof the following section:—

3 Section 79. Section 11 of this act shall take effect on December 31, 2008.

1 SECTION 12. Notwithstanding any general or special law to the contrary, the office of the secretary of the
2 commonwealth shall assign title 130 of the code of Massachusetts regulations to the executive office of
3 health and human services in recognition of the designation of such executive office, under section 16 of
4 chapter 6A of the General Laws, as the single state agency authorized to supervise and administer the
5 state programs under Titles XIX and XXI of the Social Security Act.

1 SECTION 13. Notwithstanding the provisions of any general or special law to the contrary, the executive
2 office of health and human services, pursuant to section 16 of chapter 6A of the General Laws, acting in its
3 capacity as the single state agency under Title XIX of the Social Security Act, and other federally assisted
4 programs administered by said secretariat, and as the principal agency for all of the agencies within the
5 secretariat, is authorized to enter into interdepartmental services agreements with the University of
6 Massachusetts medical school to perform such activities as the secretary, in consultation with the
7 comptroller, determines are appropriate and within the scope of the proper administration of said Title XIX
8 and other federal funding provisions to otherwise support the programs and activities of the executive
9 office. Such activities shall include: (1) provision of administrative services, including, but not limited to,
10 activities such as providing the medical expertise to support or administer utilization management activities,
11 determining eligibility based on disability, supporting case management activities, and similar initiatives; (2)
12 consulting services related to quality assurance, program evaluation and development, integrity and
13 soundness, and project management; and (3) activities and services for the purpose of pursuing federal
14 reimbursement or avoiding costs, third party liability, and recouping payments to third parties. Federal
15 reimbursement for any expenditures made by the University of Massachusetts medical school relative to
16 federally-reimbursable services provided by the University under said interdepartmental service
17 agreements or other contracts with the executive office shall be distributed to said university. The secretary
18 may negotiate contingency fees for activities and services related to the purpose of pursuing federal
19 reimbursement or avoiding costs, and the comptroller shall be directed to certify said fees and pay upon the
20 receipt of such revenue, reimbursement, or demonstration of costs avoided; provided, however, that the
21 secretary shall not pay contingency fees in excess of \$40,000,000 for state fiscal year 2006. The secretary
22 of health and human services shall submit to the secretary of administration and finance and the house and
23 senate committees on ways and means a quarterly report detailing the amounts of the agreements, the
24 ongoing and new projects undertaken by the university, the amounts spent on personnel, and the amount
25 of federal reimbursement and recoupment payments that said university was able to collect.

1 SECTION 14. Notwithstanding any general or special law to the contrary, state agencies and direct and
2 subcontracted providers of health-related services, including purchase-of-service providers financed from
3 appropriation items for any state agency, shall maximize Title XIX and all other federal, state, and private
4 health insurance coverage available to offset costs to the commonwealth. The agencies or providers shall
5 collect information from clients, or from the parent or guardian of a minor receiving services, necessary to
6 determine the extent to which clients may be eligible for medical assistance benefits under chapter 118E of
7 the General Laws or are beneficiaries of any health insurance policy. The agencies or providers shall
8 forward client information collected under this section to the executive office of health and human services
9 and such data shall only be used to match against available databases for the purpose of identifying all
10 sources of potential payment for health services or health insurance coverage. As required or permitted by
11 federal law, the executive office of health and human services shall return the results of any such data

matches to the originating agency, which shall take the appropriate action to ensure that costs to the commonwealth are minimized. Such actions shall include, but not be limited to, the agency or provider billing or re-billing all verified third-party sources. The executive office of administration and finance may grant an agency or provider an exemption from this section for good cause. The executive office of health and human services and the division of procurement within the executive office of administration and finance shall review regulations, contracting forms, service delivery reports, and uniform financial reporting requirements to determine what changes are necessary for the successful implementation of this section.

SECTION 15. Notwithstanding any special or general law to the contrary, the executive office of health and human services may promulgate regulations allowing any dentist participating in the MassHealth program to limit the number of MassHealth patients in his or her practice in accordance with standards or procedures to be established by the executive office of health and human services.

SECTION 16. Notwithstanding any general or special law to the contrary, expenditures from the Distressed Provider Expendable Trust Fund shall be dedicated to efforts that are designed to improve and enhance the ability of distressed community providers to serve populations in need more efficiently and effectively, including, but not limited to, the ability to provide community-based care, clinical support and care coordination services, pharmacy management services or other efforts to create effective coordination between hospital care and ambulatory care sites in the community. The secretary of the executive office of health and human services shall file a report not later than November 1, 2005 to the speaker of the house of representatives, the president of the senate and the house and senate committees on ways and means describing the providers funded or to be funded during fiscal year 2006, the amount expended or to be expended for each provider pursuant to this section, and the extent to which any portion of such expenditures are eligible for federal reimbursement. Any federal reimbursements received by the commonwealth for expenditures made from the fund shall be deposited into said fund.

SECTION 17. Notwithstanding any general or special law to the contrary, the department of mental health, the department of public health, the executive office of health and human services, as the single state agency responsible for administering the Medicaid program under Title XIX of the Social Security Act, and the division of health care finance and policy shall take appropriate action to obtain the maximum amount of federal financial participation available for amounts paid for low-income care costs at those mental health and public health facilities determined to be disproportionate share hospitals in accordance with requirements of Title XIX of the Social Security Act. Such appropriate action may include, but shall not be limited to, the establishment of a separate account within the Uncompensated Care Trust Fund, established by section 18 of chapter 118G of the General Laws, for the purpose of making disproportionate share payment adjustments to such qualifying mental health and public health facilities under relevant division of health care finance and policy regulations and the Title XIX state plan on file with the Centers for Medicare and Medicaid Services. The executive office of health and human services, the department of public health, and the department of mental health may expend amounts transferred to them from such separate account within the Uncompensated Care Trust Fund without further appropriation. Any federal funds obtained as a result of actions taken pursuant to this section shall be deposited in the General Fund. The state treasurer and the comptroller shall establish such procedures as may be necessary to accomplish the purpose of this section, including procedures for the proper accounting and expenditure of funds under this section.

SECTION 18. Notwithstanding any general or special law to the contrary, during fiscal year 2006 the executive office of health and human services may expend from the medical assistance intergovernmental transfer account within the Uncompensated Care Trust Fund an amount not to exceed the actual amount

4 paid for fiscal year 2005 for a program of MassHealth supplemental payments to certain publicly operated
5 entities providing Title XIX reimbursable services, directly or through contracts with hospitals under an
6 agreement with the executive office of health and human services, relating to such payments and transfers
7 as established in accordance with Title XIX of the Social Security Act or federal waivers thereof, federal
8 regulations promulgated thereunder, the terms of the waiver under section 1115 of the Social Security Act,
9 state law, and the Medicaid state plan. The funds may be expended only for payment obligations arising
10 during fiscal year 2006. Such expenditures shall reduce payments from the Uncompensated Care Trust
11 Fund to such entities by an amount comparable to the net revenues received by such entities under this
12 section. The executive office of health and human services shall notify the house and senate committees
13 on ways and means if such expenditures are rendered ineligible for federal reimbursement. All
14 expenditures made pursuant to this section shall be reported quarterly to the house and senate committees
15 on ways and means. Amounts so authorized for said expenditure shall be funded in part through
16 intergovernmental transfers to the commonwealth of municipal or other non-federal public funds. The
17 Boston public health commission and the Cambridge public health commission shall transfer to said
18 medical assistance intergovernmental transfer account an amount not less than 55 per cent of the gross
19 amounts of supplemental payments made by the executive office of health and human services under
20 managed care contracts with the commissions. An amount equal to 9.09 per cent of the total amount that
21 the Boston and Cambridge public health commissions transfer to the medical assistance intergovernmental
22 transfer account pursuant to this section shall be transferred from the medical assistance intergovernmental
23 transfer account and credited to the Distressed Provider Expendable Trust Fund, established pursuant to
24 chapter 241 of the acts of 2004.

1 SECTION 19. Notwithstanding the provisions of any general or special law to the contrary, the executive
2 office of health and human services and the division of health care finance and policy shall take any
3 appropriate action to obtain the maximum amount of federal financial participation available for amounts
4 paid to hospitals, determined by the division to be disproportionate share hospitals in accordance with Title
5 XIX requirements, for low income care costs of such hospitals. Such appropriate action may include, but
6 shall not be limited to, the assessment on hospitals for their liability to the uncompensated care pool
7 pursuant to chapter 118G of the General Laws. Such appropriate action shall include the establishment or
8 renewal of an interdepartmental services agreement between the executive office and the division which
9 may authorize the division to make deposits into and payments from an account established for the
10 purposes of this section within the Uncompensated Care Trust Fund, established by section 18 of said
11 chapter 118G, or authorize the division to transfer uncompensated care fee revenue collected from
12 hospitals pursuant to said chapter 118G or funds otherwise made available to said trust fund by the general
13 court, to the executive office for the purposes of making disproportionate share adjustment payments to
14 hospitals qualifying for such payments in accordance with the commonwealth's Title XIX state plan and
15 relevant provisions of Title XIX. The executive office may expend amounts transferred to it from the
16 Uncompensated Care Trust Fund by the division under such interdepartmental services agreement without
17 further appropriation. In no event shall the amount of money assessed upon each hospital exceed the
18 hospital's gross liability to the uncompensated care trust fund as determined by the division of health care
19 finance and policy pursuant to said section 18 of said chapter 118G. Any federal funds obtained as a result
20 of said actions shall be deposited into the General Fund. The offices of the state treasurer and the
21 comptroller shall establish such procedures as may be necessary to accomplish the purpose of this section,
22 including procedures to facilitate the expeditious assessment, collection, and expenditure of funds pursuant
23 to this section.

SECTION 20. Notwithstanding any general or special law to the contrary, in hospital fiscal year 2006, the division of health care finance and policy may administer, as provided in this section, the Uncompensated Care Trust Fund established by section 18 of chapter 118G of the General Laws, to collect assessments as specified in section 1 of said chapter 118G for deposit to the fund, and make certain payments to acute hospitals and community health centers from the uncompensated care pool to offset the costs of services provided to uninsured or low income residents. Said division and the executive office of health and human services may promulgate regulations to implement this section.

The division, in consultation with the executive office, shall ensure that assessment liability to the fund and payments from the uncompensated care pool are structured in a manner that would secure for the General Fund the maximum allowable federal reimbursement under Title XIX, XXI, or any successor federal law.

In hospital fiscal year 2006, the total liability of all acute care hospitals to the fund shall be \$160,000,000. The division shall calculate an assessment percentage rate by dividing \$160,000,000 by the projected annual aggregate private sector charges in the fiscal year for all acute care hospitals. Each acute care hospital's liability to the fund shall be equal to the product of the percentage rate and its private sector charges.

In hospital fiscal year 2006, the total surcharge liability of surcharge payers to the Uncompensated Care Trust Fund shall be \$160,000,000. The surcharge amount for each surcharge payer shall be equal to the product of: (a) the surcharge percentage; and (b) amounts paid for services of an acute hospital or ambulatory surgical center by each surcharge payer. The division shall calculate the surcharge percentage by dividing \$160,000,000 by the projected annual aggregate payments subject to surcharge, as defined in said section 1 of said chapter 118G.

All Title XIX federal financial participation revenue generated by hospital payments funded by the Uncompensated Care Trust Fund, whether the payments are made by the division or the executive office, shall be credited to the General Fund.

All hospital payments made pursuant to this section shall be subject to federal approval and conditioned on the receipt of full federal financial participation. All such payments shall be established in accordance with Title XIX of the Social Security Act, or any successor federal law, any regulations promulgated thereunder, and the commonwealth's Title XIX state plan.

The division shall calculate an annual payment liability from the uncompensated care pool to each acute care hospital for fiscal year 2006. In determining the liability amount, the division shall (a):

(1) calculate each hospital's actual free care cost for the 12-month period from October 1, 2003 to September 30, 2004 by using each hospital's actual submitted free care charges to the division on the UC-04 times its ratio of costs to charges for pool fiscal year 2004;

(2) project each hospital's free care costs above for Pool Fiscal Year 2005 by using a cost growth factor of 7.6 per cent;

(3) project each hospital's total free care costs for pool fiscal year 2006 by multiplying each hospital's pool fiscal year 2005 projected free care costs from subclause (2) by a cost growth factor of 7.6 per cent; and

(4) take into account such factors as the financial burden of hospitals that provide proportionately the largest volume of free care and the situation of any free-standing pediatric hospital with a disproportionately low volume of Title XVIII payments; and

(b) allocate the available funds in a manner that pays to each hospital a fixed percentage of its projected free care costs for hospital fiscal year 2006, as determined by the division using prior year data and considering the total funds available for the purpose; provided, however, that the fixed percentage shall not be less than 85 per cent of free care costs as defined in said section 1 of said chapter 118G for the two disproportionate share hospitals with the highest relative volume of free care costs in hospital fiscal year

2003, and not less than 88 per cent of free care costs, as defined in said section 1 of said chapter 118G, for the 14 acute hospitals with the next highest relative volume of free care costs in that year; provided further, that in order to identify said 16 hospitals, the division shall rank all hospitals based on the percentage of each hospital's free care costs divided by the total free care costs of all hospitals in the commonwealth. All other acute care hospitals shall receive the highest possible percentage of free care costs given available remaining funds. The hospital fiscal year 2006 annual liability amount to each hospital shall be funded by the trust fund; provided, however, that the liability may be satisfied through either a disproportionate share payment or adjustment to Title XIX service rate adjustment payment, or combination thereof, in accordance with the terms provided for in an agreement entered into by an acute care hospital and the executive office. The comptroller, in consultation with the division and the executive office, shall transfer funds from the trust fund to the executive office for the purpose of the Title XIX service rate adjustment payments.

The executive office may use other federally-permissible funding mechanisms available for publicly-operated hospitals and hospitals with an affiliation with a publicly-operated health care entity to reimburse up to \$70,000,000 of uncompensated care costs at the hospitals using sources distinct from the funding made available to the trust fund under this section.

The executive office shall make payments from the uncompensated care pool for services provided by community health centers to low income residents. The executive office shall structure such payments to maximize allowable federal reimbursement under Title XIX. Pursuant to section 117 of chapter 140 of the Acts of 2003, all Title XIX federal financial participation revenue generated by community health center payments funded by the Uncompensated Care Trust Fund, whether the payments are made by the division or the executive office, shall be retained in a separate account within the Uncompensated Care Trust Fund and expended, without further appropriation, for uncompensated care pool payments to community health centers, in addition to the amount specified in the following paragraph.

In hospital fiscal year 2006, \$380,000,000 from the trust fund shall be credited to the uncompensated care pool for payments to acute hospitals provided for herein. In addition to the federal financial participation to be retained in, and expended from, the trust fund for community health centers pursuant to the preceding paragraph of this section, \$56,000,000 from the trust fund shall be credited to the pool for payments to community health centers provided for in this section; and \$4,000,000 shall be credited for administrative expenses, including demonstration projects pursuant to sections 21 and 22 of chapter 47 of the acts of 1997, as amended by sections 156, 157, and 158 of chapter 184 of the acts of 2002.

In hospital fiscal year 2006, the office of the inspector general is hereby authorized to continue to expend funds appropriated in chapter 240 of the acts of 2004 from the Uncompensated Care Trust Fund for the costs associated with maintaining a pool audit unit within said office. The unit shall continue to oversee and examine the practices in emergency rooms of all Massachusetts' hospitals concerning the care of the uninsured and the resulting free care charges. The inspector general shall submit a report to the house and senate committees on ways and means on the results of the audits and any other completed analyses not later than March 1, 2006. For the purposes of the audits, allowable free care services shall be as provided in chapter 118G of the General Laws and any applicable regulations.

SECTION 21. Notwithstanding any general or special law to the contrary, in fiscal year 2006, the division of health care finance and policy, herein after referred to as the division, shall establish nursing facility Medicaid rates, payable out of the Health Care Quality Improvement Trust Fund, established under section 2EEE of chapter 29 of the General Laws, effective July 1, 2005 through June 30, 2006 that cumulatively total \$288,500,000 more than the annual payment rates established by the division under the rates in effect as of June 30, 2002, as mandated under section 1 of chapter 42 of the acts of 2003. The division shall

adjust per diem rates to reflect any reductions in medicaid utilization. Payments from the fund shall be allocated in the following manner in fiscal year 2006:

(1) effective July 1, 2005, an annual amount of \$99,000,000 in the aggregate to fund the use of 2000 base year cost information for rate determination purposes; provided, that \$9,000,000 of said amount shall be expended for purposes of reimbursing nursing facilities for up to ten bed hold days for patients of the facility on medical leaves of absence;

(2) effective July 1, 2005, an annual amount of \$122,500,000 for enhanced payment rates to nursing homes;

(3) effective July 1, 2005, an annual amount of \$50,000,000 to fund a rate add-on for wages, hours and benefits and related employee costs of direct care staff of nursing homes. As a condition for such rate add-on, the division shall require that each nursing home document to the division that such funds are spent only on direct care staff by increasing the wages, hours and benefits of direct care staff, increasing the facility's staff-to-patient ratio, or by demonstrably improving the facility's recruitment and retention of nursing staff to provide quality care, which shall include expenditure of funds for nursing facilities which document actual nursing spending that is higher than the median nursing cost per management minute in the base year used to calculate Medicaid nursing facility rates. A facility's direct care staff shall include any and all nursing personnel including registered nurses, licensed practical nurses, and certified nurses' aides hired by the facility from any temporary nursing agency or nursing pool registered with the department of public health. The division shall credit wage increases that are over and above any previously collectively bargained for wage increases. In monitoring compliance for this rate add-on, the division's regulations shall adjust any spending compliance test to reflect any Medicaid nursing facility payment reductions, including, but not limited to, rate reductions imposed on or after October 1, 2002. The expenditure of these funds shall be subject to audit by the division in consultation with the department of public health and said executive office. In implementing this section, the division shall consult with the Nursing Home Advisory Council;

(4) effective July 1, 2005, an annual amount of \$17,000,000 to fund rate adjustments for reasonable capital expenditures by nursing homes, giving priority to nursing homes located or constructed in under-bedded areas as determined by said executive office, in consultation with the division of health care finance and policy, that meet quality standards established by said executive office in conjunction with the department of public health and the division for the purposes of encouraging the upgrading and maintenance of quality of care in nursing homes, and to fund rate adjustments to eligible nursing homes that meet utilization standards established by said executive office in consultation with the division for the purpose of reducing unnecessary nursing home admissions and facilitating the return of nursing home residents to non-institutional settings;

(5) \$300,000 for the purposes of an audit of funds distributed pursuant to clause (3). The division, in consultation with the department of public health and with the assistance of said executive office, shall establish penalties sufficient to deter noncompliance to be imposed against any facility that expends any or all monies in violation of clause (3), including but not limited to recoupment, assessment of fines or interest. The division shall report to the house and senate committees on ways and means not later than October 1, 2006 a preliminary analysis of funds expended pursuant to clause (3) in fiscal year 2006 and a description and timeline for auditing of these funds;

(6) \$250,000 to fund expenses at the division related to the implementation and administration of section 25 of chapter 118G of the General Laws;

(7) an amount sufficient to implement the provisions of section 622 of chapter 151 of the acts of 1996;

The comptroller shall transfer from the Health Care Security Trust Fund to the Health Care Quality Improvement Trust Fund on the first business day of each quarter, the amount indicated by the division and

said executive office to provide the appropriate rate increases to nursing homes; and provided further, that any additional funds that may become available in the Trust due to decreased Medicaid utilization shall be spent on further enhanced rates, including, but not limited to, a per-diem rate add-on for large medicaid providers as specified in 114.2 CMR 6.00 (10) (a) as in effect on September 1, 2003.

SECTION 22. Notwithstanding any general or special law to the contrary, in order to maintain the fiscal viability of the subsidized catastrophic prescription drug insurance program, hereinafter referred to as the "prescription advantage program", authorized by section 39 of chapter 19A of the General Laws, cost sharing required of enrollees in the form of co-payments, premiums, and deductibles, or any combination thereof, shall be adjusted by the department of elder affairs to reflect price trends for outpatient prescription drugs, as determined by the secretary of elder affairs. Beginning January 1, 2006, in addition to the eligibility requirements set forth in said section 39 of chapter 19A, to be considered eligible for the prescription advantage program, individuals who receive Medicare and are applying for, or are then enrolled in, the prescription advantage program shall also be enrolled in a Medicare Part D plan, or in a Medicare Advantage plan if that plan provides prescription drug benefits equivalent to or better than Medicare Part D. In addition to the eligibility requirements set forth in section 39 of chapter 19A, to be considered eligible for the prescription advantage program, individuals who receive Medicare and are applying for, or are then enrolled in, the prescription advantage program, who may qualify for the low-income subsidy, so-called, provided under the Medicare Prescription Drug, Improvement and Modernization Act of 2003, hereinafter referred to as "MMA", Subpart P - Premiums and cost-sharing subsidies for low-income individuals shall apply for those subsidies. To the extent permitted by MMA and regulations promulgated thereunder, and all other applicable federal law, the prescription advantage program may apply on behalf of a member for enrollment into a Medicare Part D plan or for the low-income subsidy provided under MMA. Beginning January 1, 2006, for enrollees who qualify for Medicare Part D, the prescription advantage program will provide a supplemental source of financial assistance for prescription drug costs, hereinafter referred to as "supplemental assistance" in lieu, of the catastrophic prescription drug coverage provided pursuant to said section 39 of chapter 19A. The prescription advantage program will provide supplemental assistance for premiums, deductibles, payments, and co-payments required by the Part D plan or Medicare Advantage plan. The department shall establish the amount of the supplemental assistance it will provide enrollees based on a sliding income scale and the coverage provided by the enrollees' Part D or Medicare Advantage plan. Residents of the commonwealth who are not eligible for Medicare will continue to be eligible for the prescription advantage program pursuant to said section 39 of chapter 19A.

SECTION 23. Notwithstanding any general or special law to the contrary, the board of trustees for the University of Massachusetts system and the president of the University are hereby authorized and directed to establish a two-year pilot program for out-of-state tuition retention at the flagship campus of the University at Amherst. The board shall promulgate regulations to allow the administration of the Amherst campus to retain, in fiscal years 2006 and 2007, all tuition paid by students who are not residents of Massachusetts. The regulations shall ensure that no resident of Massachusetts is denied admission to the Amherst campus as a result of the tuition retention pilot project. The board of trustees for the University system shall issue a report on the progress of said initiative no later than February 1, 2006 and 2007 to the house and senate chairs of the joint committee on education, arts, and humanities, and the chairs of the house and senate committees on ways and means. The report shall include the number of out-of-state students attending the school, the amount of tuition revenue retained under the program, and any programs or initiatives funded with the retained revenue.

13 Notwithstanding any general or special law to the contrary, for employees of public higher education
14 institutions who are paid from tuition retained pursuant to this section, fringe benefits shall be funded as if
15 those employees' salaries were supported by state appropriations. This section shall apply only to fringe
16 benefits associated with salaries paid from tuition retained by the boards of trustees of public higher
17 education institutions as a direct result of the implementation of this section.

1 SECTION 24. Notwithstanding any general or special law to the contrary, the comptroller shall, in
2 consultation with the office of the state treasurer, the executive office for administration and finance, and
3 the executive office of health and human services, develop a schedule for making a series of transfers not
4 to exceed \$85,900,000 from the General Fund to the Uncompensated Care Trust Fund for the purpose of
5 making revenues available for the administration of the uncompensated care pool, established under
6 subsection (d) of section 18 of chapter 118G of the General Laws, as appearing in the 2002 Official Edition.
7 Said schedule shall make said transfers in increments as deemed appropriate to meet the cash flow needs
8 of the commonwealth and said uncompensated care pool; provided, that said transfers shall not begin
9 before October 1, 2005 and shall be completed on or before June 30, 2006.

1 SECTION 25. Notwithstanding the provisions of any general or special law to the contrary, the comptroller
2 shall, in consultation with the office of the state treasurer, the executive office for administration and
3 finance, and the executive office of health and human services, develop a schedule for transferring the
4 unexpended balance from account 4000-0896 in the state accounting system to the Uncompensated Care
5 Trust Fund for the purpose of making revenues available for the administration of the uncompensated care
6 pool, established under subsection (d) of section 18 of chapter 118G of the General Laws, and pursuant to
7 the provisions of this act. Said schedule shall make said transfers in increments as deemed appropriate to
8 meet the cash flow needs of the commonwealth and said uncompensated care pool; provided, that said
9 transfers shall not begin before October 1, 2005 and shall be completed on or before June 30, 2006.

1 SECTION 26. Notwithstanding any general or special law to the contrary, the comptroller shall transfer on
2 or before October 1, 2005, the greater of \$30,000,000 or one-twelfth of the total expenditures to be made to
3 hospitals and community health centers pursuant to this Act, from the General Fund to the Uncompensated
4 Care Trust Fund established pursuant to section 18 of chapter 118G of the General Laws, for the purpose
5 of making initial gross payments to qualifying acute care hospitals for the hospital fiscal year beginning
6 October 1, 2005. Said payments shall be made, without further appropriation, to hospitals prior to, and in
7 anticipation of, the payment by hospitals of their gross liability to the Uncompensated Care Trust Fund. The
8 comptroller shall transfer from the Uncompensated Care Trust Fund to the General Fund not later than
9 June 30, 2006, the amount of the transfer authorized herein and any allocation thereof as certified by the
10 commissioner of the division of health care finance and policy.

1 SECTION 27. Notwithstanding any general or special law to the contrary, during fiscal year 2006, the
2 comptroller shall transfer from the Health Care Security Trust, established under chapter 29D of the
3 General Laws, to the General Fund an amount equal to 100 per cent of the total of all payments received
4 by the commonwealth in fiscal year 2006 pursuant to the master settlement agreement in the action known
5 as Commonwealth of Massachusetts v. Phillip Morris, Inc. et. al., Middlesex Superior Court, No. 95-7378,
6 and 50 per cent of the earnings generated in fiscal year 2006 from the Health Care Security Trust as
7 certified by the comptroller pursuant to paragraph (f) of section 3 of chapter 29D of the General Laws for
8 certain health care expenditures appropriated in section 2.

1 SECTION 28. Notwithstanding any general or special law to the contrary, pension benefits formerly funded
2 through item 0612-2000 in fiscal year 2004 shall be funded from the Pension Reserves Investment Trust
3 Fund, established pursuant to chapter 661 of the Acts of 1983. The state treasurer shall report to the
4 house and senate committees on ways and means not later than November 15, 2005 on the benefits
5 funded pursuant to this section. Said report shall list the amount of benefit received by each individual
6 through this funding in fiscal year 2005 and the amount of benefit projected to be received by each
7 individual through this funding in fiscal year 2006.

1 SECTION 29. Notwithstanding the provisions of any general or special law to the contrary, the amounts
2 transferred to the Commonwealth's Pension Liability Fund, pursuant to section 22C of chapter 32 of the
3 General Laws, as appearing in the 2002 Official Edition, shall be made available to meet the
4 Commonwealth's obligations pursuant to said section 22C, including retirement benefits payable by the
5 state employees' and the state teachers' retirement systems, the costs associated with a three per cent
6 cost-of-living adjustment pursuant to the provisions of section 102 of said chapter 32, the reimbursement of
7 local retirement systems for previously authorized cost-of-living adjustments pursuant to said section 102,
8 and for the costs of increased survivor benefits pursuant to chapter 389 of the Acts of 1984. Subject to
9 rules and regulations promulgated by the treasurer, the state retirement board and each city, town, county,
10 or district shall verify the cost of said obligations and the treasurer may make payments therefor upon a
11 transfer of funds as hereinafter provided, to reimburse certain cities and towns for pensions to retired
12 teachers, and including any other obligations which the commonwealth has assumed on behalf of any
13 retirement system other than the state employees' or state teachers' retirement systems, and including the
14 commonwealth's share of the amounts to be appropriated pursuant to section 22B of said chapter 32 and
15 the amounts to be appropriated pursuant to clause (a) of the last paragraph of section 21 of chapter 138 of
16 said General Laws. All payments for the purposes herein described shall be made only pursuant to
17 distribution of monies from said fund, and any such distribution and the payments for which distributions are
18 required shall be detailed in a written report filed quarterly by the commissioner of administration with the
19 house and senate committees on ways and means and the joint committee on public service in advance of
20 such distribution; provided, that such distributions shall not be made in advance of the date on which any
21 payment is actually to be made. Any request for distribution from said fund shall not be in excess of the
22 amount necessary to provide sufficient monies to make all payments for the purposes herein before
23 described. The state retirement board is authorized to expend an amount for the purposes of the board of
24 higher education's optional retirement program pursuant to section 40 of chapter 15A of said General Laws.
25 To the extent that the amount transferred pursuant to section 5B of said chapter 29 exceeds the amount
26 necessary to adequately fund the annual pension obligations, the excess amount shall be credited to the
27 Pension Reserves Investment Trust Fund of the commonwealth for the purpose of reducing the unfunded
28 pension liability of the commonwealth.

1 SECTION 30. Notwithstanding any general or special law to the contrary, on or before June 30, 2006, the
2 comptroller shall transfer \$380,000,000 from the Commonwealth Stabilization Fund, established pursuant
3 to section 2H of chapter 29 of the General Laws, to the General Fund.

1 SECTION 31. Notwithstanding any general or special law to the contrary, for fiscal years 2006 and
2 thereafter, the total amount allocated for distribution to cities and towns pursuant to section 35 of chapter
3 10 of the General Laws shall be the sum of the amount distributed in fiscal year 2005 and: (i) in fiscal year
4 2006, 45 per cent of the difference between the fiscal year 2005 distribution and the amount that would
5 otherwise be payable; (ii) in fiscal year 2007, 60 per cent of the difference between the fiscal year 2005
6 distribution and the amount that would otherwise be payable; (iii) in fiscal year 2008, 80 per cent of the

7 difference between the 2005 distribution and the amount that would otherwise be payable. For fiscal year
8 2009 and thereafter the distribution of lottery proceeds shall be determined pursuant to section 35 of
9 chapter 10 of the General Laws.

1 SECTION 32. (a) Upon the request of the board of selectmen in a town, the city council in a plan E city or
2 the mayor in any other city, the department of revenue may recalculate the minimum required local
3 contribution, as defined in section 2 of chapter 70 of the General Laws, as appearing in the 2002 Official
4 Edition, in the fiscal year ending June 30, 2006. Based on the criteria in this section, the department shall
5 recalculate the minimum required local contribution for a municipality's local and regional schools and shall
6 certify the amounts calculated to the department of education.

7 (b) A city or town that used qualifying revenue amounts in a fiscal year which shall not be
8 available for use in the next fiscal year or that shall be required to use revenues for extraordinary non
9 school-related expenses for which it did not have to use revenues in the preceding fiscal year or that has
10 an excessive certified municipal revenue growth factor which is also greater than or equal to 1.5 times the
11 state average municipal revenue growth factor may appeal to the department of revenue not later than
12 October 1, 2005 for an adjustment of its minimum required local contribution and net school spending.

13 (c) If a claim is determined to be valid, the department of revenue may reduce proportionately the
14 minimum required local contribution amount based on the amount of shortfall in revenue or based on the
15 amount of increase in extraordinary expenditures in the current fiscal year, but no adjustment to the
16 minimum required local contribution on account of an extraordinary expense in the budget for the fiscal
17 year ending on June 30, 2006 shall affect the calculation of the minimum required local contribution in
18 subsequent fiscal years. Qualifying revenue amounts shall include, but not be limited to, extraordinary
19 amounts of free cash, overlay surplus and other available funds.

20 (d) If, upon submission of adequate documentation, the department of revenue determines that
21 the municipality's claim regarding an excessive municipal revenue growth factor is valid, the department
22 shall recalculate the municipal revenue growth factor and the department of education shall use the revised
23 growth factor to calculate the preliminary local contribution, the minimum required local contribution and
24 any other factor that directly or indirectly uses the municipal revenue growth factor. Any relief granted as a
25 result of an excessive municipal revenue growth factor shall be a permanent reduction in the minimum
26 required local contribution.

27 (e) Upon the request of the board of selectmen in a town; the city council in a plan E city or the
28 mayor in any other city; or in a majority of the member municipalities of a regional school district which
29 used qualifying revenue amounts in a fiscal year that shall not be available for use in the next fiscal year
30 shall appeal to the department of revenue not later than October 1, 2005 for an adjustment to its net school
31 spending requirement. If the claim is determined to be valid, the department of revenue shall reduce the
32 net school spending requirement based on the amount of the shortfall in revenue and reduce the minimum
33 required local contribution of member municipalities accordingly. Qualifying revenue amounts shall
34 include, but not be limited to, extraordinary amounts of excess and deficiency, surplus and uncommitted
35 reserves.

36 (f) If the regional school budget has already been adopted by two-thirds of the member
37 municipalities then, upon a majority vote of the member municipalities, the regional school committee shall
38 adjust the assessments of the member municipalities in accordance with the reduction in minimum required
39 local contributions approved by the department of revenue or the department of education in accordance
40 with this section.

41 (g) Notwithstanding clause (14) of section 3 of chapter 214 of the General Laws or any other
42 general or special law to the contrary, the amounts so determined shall be deemed to be the minimum
43 required local contribution described in chapter 70 of the General Laws. The house and senate committees

on ways and means and the joint committee on education, arts and humanities shall be notified by the department of revenue and the department of education of the amount of any reduction in the minimum required local contribution amount.

(h) If a city or town has an approved budget that exceeds the recalculated minimum required local contribution and net school spending amounts for its local school system or its recalculated minimum required local contribution to its regional school districts as provided by this section, the local appropriating authority shall determine the extent to which the community shall avail itself of any relief authorized under this section.

(i) The amount of financial assistance due from the commonwealth in fiscal year 2006 under said chapter 70 or any other law shall not be changed on account of any redetermination of the minimum required local contribution under this section.

(j) The department of revenue and the department of education shall issue guidelines for their respective duties under this section.

SECTION 33. The provisions of section 615 of chapter 26 of the acts of 2003 shall apply in fiscal year 2006.

SECTION 34. Except as otherwise specified, this act shall take effect on July 1, 2005.